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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,030	12/11/2003	Glade H. Howell	P-3855C1C1C1	8757
26253 7590 08/03/2007 DAVID W. HIGHET, VP AND CHIEF IP COUNSEL BECTON, DICKINSON AND COMPANY 1 BECTON DRIVE, MC 110 FRANKLIN LAKES, NJ 07417-1880			EXAMINER VU, QUYNH-NHU HOANG	
			ART UNIT 3763	PAPER NUMBER
			MAIL DATE 08/03/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/734,030	<b>Applicant(s)</b> HOWELL, GLADE H.	
	<b>Examiner</b> Quynh-Nhu H. Vu	<b>Art Unit</b> 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/11/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

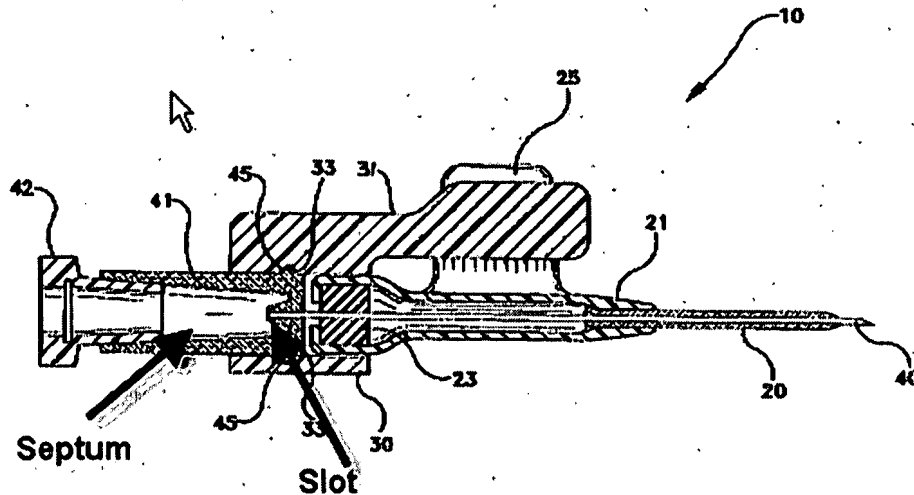
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over  
Brimhall (US 5,676,656) in view of Brimhall (US 5,385,554).

Brimhall '656 discloses a septum and needle assembly comprising: a needle 40 having a proximal end and a distal end; a housing; and septum (Fig. 2) disposed in the housing; wherein the needle is sliding disposed within the septum. A slit is disposed within the septum and the needle is sliding disposed within the slit (claim 2). A tube 50 attached to and in fluid communication with the housing (claim 3); a female adapter 51 attached to the tube (claim 4). Brimhall '656 does not disclose the needle defines a notch adjacent to the distal end.

Brimhall '554 discloses that a needle 16 having a notch 19 located adjacent to the distal end. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Brimhall '656 with an opening (notch like opening 19), as taught by Brimhall '554 in order to permit fluid to flow from lumen into annular space.

FIG-2



Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brimhall (US 5,676,656) in view of Brimhall (US 5,385,554) and further in view of Schaffer (US 5,429,616).

Brimhall '656 in view of Brimhall '554, disclose all claimed subject matter except for biasing element engaged to the septum; wherein the septum has a dumbbell shape and the C-shaped clip is directly engaged to the septum.

Schaffer discloses a biasing element 44, 46, 70; wherein the biasing element is a C-shaped clip (Figs. 3-6); a septum (include 50, 26 and 28); and the C-shaped clip is directed engaged to the septum.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Brimhall '656 in view of Brimhall '55a with the septum and the biasing element, as taught by Schaffer, for the benefits of

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gripping and pushing toward each other to compress the sealing material and occlude the apparatus.

Claims 8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaffer (US 5,429,616) in view of Brimhall (US 5,385,554).

Schaffer discloses a catheter apparatus for insertion into a blood vessel including: a catheter 40; a housing in fluid connection with the catheter; a septum (includes 32, 50, 26, 28); a needle 14 sliding disposed with respect to the catheter, the needle 14 having a proximal end and a distal end; a finger grip 44, 46 attached to the needle at its proximal end; the septum includes an elastic plug 28 having a proximal end 32 and a distal end 34, an outside longitudinal surface 26, 50 extending between the proximal end and the distal end, and a slit 52 (claims 9-13); a biasing element (Figs. 3-6); the elastic plug comprises an annular groove; the biasing element is a C-shaped clip; the electrometric plug has a dumbbell shape (claim 18); wherein the biasing element is a C shaped clip that does not extend completely about the circumference of the elastic plug (claim 20).

Schaffer does not disclose a needle having a notch and a distal end of opening in the distal end of the needle.

Brimhall '554 discloses that a needle 16 having a notch 19 located adjacent to the distal end. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Schaffer with an

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opening (notch like opening 19), as taught by Brimhall '554 in order to permit fluid to flow from lumen into annular space.

Regarding claims 19-20, it is well known in the art to provide a tube attached to the proximal end of the catheter, as applicant admitted in para [0005].

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh-Nhu H. Vu whose telephone number is 571-272-3228. The examiner can normally be reached on 6:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

QNV

  
LOAN H. THANH  
PRIMARY EXAMINER